IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8414 OF 2005

The Greater Bombay Co-op.
Bank Ltd., . .. Petitioner.

vs.

Shyama Engineering
Industries & Ors. .. Respondents.

Mr. S.R. Bhalekar for petitioner.
Mr. C.S. Balasara for respondents.

CORAM : S.U. KAMDAR, J.
DATE : 20th December, 2005.

P.C.:

. The present petition challenges the order passed in revision application dated 16.11.2005 under the provisions of Section 154 (2A) of the Maharashtra Co-operative Societies Act, 1960 a revision is maintained only after the amount of 50% of the recovery certificate is deposited in the Court. In an earlier round of litigation the parties have come to this Court and in Writ Petition No. 729 of 2005 an order was passed on 14.3.2005 directing the petitioner to deposit 50% amount as provided under sub-section (2A) of Section 154 of the said Act. The respondent had issued the cheque but the same was dishonoured. Thus, there was no

deposit as contemplated under Section 154 (2A) of the said Act and as directed by this Court in Writ Petition No. 729 of 2005. However, the revisional authority proceeded on the footing that though the said amount was not deposited but subsequently after expiry of the period the cheque was given which was not encashed by the petitioner as time was expired therefore, the revision application was without deposit. The order passed by the revisional authority is totally unsustainable. The learned counsel appearing for the respondent has submitted that the respondent had tendered the draft of 50% of the amount as contemplated under Section 154 (2A) of the said Act. In my opinion there was non compliance with the provisions of Section 154 (2A) and thus the revisional authority could not have entertained the said application. In that light of the matter, the impugned order is quashed and set aside. However in view of the tender of the said 50% amount by the respondent to the petitioner's bank by pay order today in Court, the matter is remanded back to the revisional authority for haring afresh on merits. The revisional authority is directed to hear the revision application no. 249 of 2005 afresh and on its own merits without taking into consideration the reasoning given in the impugned order. The revisional authority is directed to hear and dispose of the revision application on or before 31.3.2006. The petitioner

will be at liberty to file any reply. Such reply to be filed within a period of three weeks from today. Petition disposed of accordingly. No order as to costs. It is clarified that the properties which are under attachment will continue. However, the same will not be sold but the respondent no. 1 will be entitled to utilise the said property for itself. The possession if taken by the petitioner will be restored forthwith.